IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6128 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE D.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SMT. KOKILABEN J. VORA

Versus

COM. AUTHORITY & DY.COLLECTOR (ULC)

Appearance:

1. Special Civil Application No. 6128 of 1991

MR BG JANI for Petitioner No. 1-2

MR RM CHAUHAN AGP for Respondent No. 1-2

CORAM : MR.JUSTICE D.K.TRIVEDI

Date of decision: 01/02/2003

ORAL JUDGEMENT

When the matter was placed for final hearing before me today and in view of the challenged made in

this petition and the fact that possession of the excess land declared by the Competent Authority under Urban Land Ceiling Act is with the petitioner, I have heard Mr. Jani, learned advocate for the petitioner and Mr. R.M. Chauhan, learned AGP for the respondent State. In view of the order passed at the time of issuing notice to the respondent authority dated 9.2.1994, the parties were directed to maintain status quo with respect of the properties involved in the petition and thereafter, when the petition was admitted on 30.8.1994, the interim relief granted earlier was ordered to be continued till final disposal of the petition.

2. The order under challenge is in respect of the order passed by the Competent Authority and the Deputy Collector, Urban Land (Ceiling & Regulation) Act, 1976 as well as challenge to the said order by the Appellate Authority as well as Urban Land Tribunal and Ex-officio, Additional Chief Secretary Government in Appeal No. Ahmedabad 86 of 1990 dated 30.4.1991.

3. Mr. B.G. Jani has stated that in view of the Repeal Act 1999 namely The Urban Land (Ceiling and Regulation) Repeal Act, 1999 No. 15 of 1999 and as per amended provision of Section 4, present petition deserves to be abated.

4. The provisions of Section 3 and 4 of The Urban Land (Ceiling and Regulation) Repeal Act 1999 (No. 15 of 1999), reads as under:-

Section 3 (1) The repeal of the Principal Act shall not affect :-

(a) the vesting of any vacant land under sub-section (3) of Sec.10, possession of which has been taken over by the State Government or any person duly authorised by the State Government in this behalf or the competent authority (b) the validity of any order granting exemption under sub-sec (1) of Sec.20 or any action taken thereunder, not withstanding any judgement or any Court to the contrary; (c) any payment made to the State Government as a condition for granting exemption under sub-sec (1) of Sec. 20 (2) Where (a) any land is deemed to have vested in the State Government under sub-sec (3) of Sec.10 of the Principal Act, but possession of which has not been

taken over by the State Government in this behalf or by the competent authority; and (b) any amount has been paid by the State Government with respect to such land, then, such land shall not be restored unless the amount paid, if any, has been refunded to the State Government."

Section 4 :-

"All proceedings relating to any order made or purported to be made under the Principal Act pending immediately before the commencement of this Act, before any court, tribunal or other authority shall abate : Provided that this Section shall not apply to the proceedings relating to Secs. 11, 12, 13 and 14 of the Principal Act insofar as such proceedings are relatable to the land, possession of which has been taken over by the State Government or any person duly authorised by the State Government in this behalf or by the competent authority."

5. It is also brought to my notice that Repeal Act, 1999 came into force under the Notification issued by the Government of Gujarat dated 15th April, 1999 and the Repeal Act came into force from 30th March, 1999.

6. In view of Section 4 of the Repeal Act, 1999, all proceedings relating to any order made or purported to be made under the Principal Act pending immediately before the commencement of this Act, before any court, tribunal or other authority shall abate. Admittedly, the order passed by the Competent Authority under Urban Land Ceiling Act declaring the land of the petitioner as excess and the possession is remained with the petitioner, accordingly, by applying section 4 of the Repeal Act, 1999, the present petition filed by the petitioner shall abate. Accordingly, petition is disposed of as abated. Rule is made discharged with no order as to costs. Notice discharged.

(D.K. Trivedi, J.)

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